

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

VALARY W. NELLUM

PLAINTIFF

v.

Case No. 4:20-cv-00385-LPR

ARKANSAS CHILDREN'S HOSPITAL

DEFENDANT

ORDER

On April 7, 2020, Plaintiff Valary Nellum paid the requisite filing fee and brought this *pro se* employment action under Title VII of the Civil Rights Act of 1964.¹ Pending is Defendant Arkansas Children's Hospital's ("ACH") Partial Motion to Dismiss.² Ms. Nellum did not respond, and the time for doing so has passed. For the reasons stated below, the Motion is GRANTED.

In her Complaint,³ Ms. Nellum alleges that she suffered workplace discrimination and retaliation resulting in a hostile work environment. She further maintains that she was repeatedly denied promotional opportunities beginning in 2014.⁴ Eventually, Ms. Nellum filed the first of several charges of discrimination with the Equal Employment Opportunity Commission ("EEOC") on April 4, 2019.⁵

¹ 42 U.S.C. §§ 2000e *et seq.*

² Defendant's Motion to Dismiss, Doc. 27.

³ Complaint, Doc. 1


⁴ *Id.* at 5.

⁵ *Id.* at 2.

Each time Ms. Nellum sought and was denied a promotion is a discrete act.⁶ “Each discrete act is a different unlawful employment practice for which a separate charge is required.”⁷ Under Title VII, a complainant must file a charge with the EEOC within 180 days of a discrete act.⁸ In her Complaint, Ms. Nellum states that she first filed a charge with the EEOC on April 4, 2019.⁹ As a result, any of the asserted failures-to-promote occurring before October 6, 2018 (180 days before her first EEOC charge) are barred due to her failure to exhaust.

ACH’s Motion to Dismiss Ms. Nellum’s failure-to-promote claims is granted to the extent the failure-to-promote claims are based on failures-to-promote occurring before October 6, 2018.

Dated, this 3rd day of February, 2021.



LEE P. RUDOFSKY
UNITED STATES DISTRICT JUDGE

⁶ *Moses v. Dassault Falcon Jet-Wilmington Corp.*, 894 F.3d 911, (8th Cir. 2018) ((citing *Nat’l R.R. Passenger Corp. v Morgan*, 536 U.S. 101, 114 (2002) (“Discrete acts such as termination, failure to promote, denial of transfer, or refusal to hire are easy to identify. Each incident of discrimination and each retaliatory adverse employment decision constitutes a separate actionable ‘unlawful employment practice.’”)).

⁷ *Id.* (citing *Richter v. Advance Auto Parts, Inc.*, 686 F.3d 847, 851 (8th Cir. 2012)).

⁸ 42 U.S.C. § 2000e-5(e)(1).

⁹ Doc. 1 at 2.